

Appl. No. : 09/874,563
Filed : June 5, 2001

REMARKS

In response to the Office Action, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Discussion of Interview

Applicant's attorney wishes to express his appreciation to the Examiner for the courtesy of conducting an interview for this application on July 22, 2003. During this interview, Applicant discussed why the cited prior art failed to teach or suggest the above-listed claim limitations. Furthermore, during the interview, it was discussed, Applicant would file this response and a supplemental response to address these issues further.

Discussion of Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

In the Office Action, the Examiner rejected Claims 4, 5, and 7-10 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully submits that these changes have been corrected by the above-amendments.

Discussion of Obviousness-Type Double Patenting

In the Office Action, the Examiner rejected Claims 1-14 as being objected to under the judicially created doctrine of double patenting as being unpatentable over U.S. Patent No. 5,583,763. In response, Applicant has filed a terminal disclaimer with respect to this patent, and respectfully submits that the basis of this rejection has been removed. Applicant submits that the filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission regarding the propriety of the rejection. See M.P.E.P § 804.02.

Discussion of Claim Rejections Under 35 U.S.C. § 103(a)

In the Office Action, the Examiner rejected Claims 1-14 as being unpatentable under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,996,642, to Hey (hereinafter "Hey"). To establish prima facie obviousness of a claimed invention, all the claim limitations

Appl. No. : 09/874,563
Filed : June 5, 2001

must be taught or suggested by the prior art. See M.P.E.P. § 2143.03. As discussed in the interview, Hey fails to teach or suggest in its all of the above-listed claim limitations, and they are in condition for allowance.

Conclusion

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims for patentability purposes, the reasons therefore, and arguments in support of the patentability of the pending claim set are presented above. Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and the claims would satisfy the statutory requirements for patentability without the entry of such amendments. In addition, such amendments do not narrow the scope of the claims. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 23, 2003

By: 

Eric M. Nelson
Registration No. 43,829
Attorney of Record
Customer No. 20,995
(619) 235-8550

S:\DOCS\EMN\EMN-3291.DOC
072303